
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

CAZEMBE SOKONI BASKIN,

Plaintiff,

versus

CORRECTIONAL OFFICER MURPHY,
et al.,

Defendants.

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CIVIL ACTION NO. 1:04-CV-324

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Cazembe Sokoni Baskin, an inmate confined at the United States Penitentiary in Leavenworth, Kansas, proceeding *pro se* and *in forma pauperis*, brought this lawsuit against Correctional Officers Murphy and LaBair.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed for failure to exhaust administrative remedies or, alternatively, as frivolous and for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

Based on the recent Supreme Court case *Jones v. Bock*, __ U.S. __, 127 S.Ct. 910 (2007), issued after the report was filed, it is no longer clear that the recommendation of dismissal for

failure to exhaust administrative remedies is proper. Therefore, the Report will be adopted only to the extent it recommended dismissal as frivolous and for failure to state a claim upon which relief may be granted.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

SIGNED at Beaumont, Texas, this 20th day of April, 2007.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE